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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 ANTOLIN ANDRE MARKS,

9 Petitioner,

10 v.

11 A. NEIL CLARK,

12 Respondent.

Case No. C09-5148BHS

ORDER OVERRULING  
PETITIONER'S OBJECTIONS  
AND ADOPTING REPORT  
AND RECOMMENDATION

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14 This matter comes before the Court on the Report and Recommendation of the  
15 Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 21) and Petitioner's  
16 objections (Dkt. 22).

17 Judge Creatura recommended denying the petition because (1) Petitioner's request for  
18 release is moot since he has already been released from confinement, (2) Petitioner lacks  
19 standing to seek injunctive relief, and (3) this Court does not have jurisdiction to entertain  
20 Petitioner's request to determine citizenship as a result of his prior deportation proceeding.

21 Petitioner first alleges, without any evidentiary support, that the magistrate judge  
22 failed to inquire into the administrative record, and did not "check out the paper copy of the  
23 Administrative File." This argument is without merit. Petitioner does not dispute the fact that  
24 he is no longer confined. Therefore, the Court adopts Judge Creatura's determination that  
25 the petition is moot.


1 Petitioner next alleges that he is entitled to injunctive relief to prevent United States  
2 Customs and Immigration Enforcement from again taking him into custody. This issue was  
3 properly addressed in the Report and Recommendation, and the Court adopts Judge  
4 Creatura's conclusion that Petitioner lacks standing to obtain the injunctive relief requested.

5 Finally, Petitioner maintains that the district court can inquire into the citizenship of  
6 Wayne Rudder because the Government has prevented him access to Mr. Rudders's  
7 administrative file, and because Petitioner must demonstrate that he is not Mr. Rudder. This  
8 issue was also properly addressed in the Report and Recommendation. Petitioner fails to  
9 demonstrate that this Court has jurisdiction to consider this claim. In addition, the Court  
10 notes that Petitioner has not shown that such a request is properly before the Court as a  
11 habeas petition.

12 The Court having considered the Report and Recommendation, Petitioner's  
13 objections, and the remaining record, does hereby find and order:

- 14 (1) The Court adopts the Report and Recommendation; and  
15 (2) The petition for habeas corpus is **DENIED**.

16 DATED this 17<sup>th</sup> day of August, 2009.

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19 BENJAMIN H. SETTLE  
20 United States District Judge  
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